

UNITED STATES DISTRICT COURT

for

NORTHERN DISTRICT OF CALIFORNIA

Southern District of Florida Venue

FILED

JAN 16 2007

Petition for Summons for Offender Under Supervision

Name of Offender: Daniel Ortega Docket No.: CR 06-00589-01 JF

Name of Sentencing Judge: James Lawrence King
United States District Judge

Date of Original Sentence: July 3, 2001

Original Offense: Importation of Heroin, 21 U.S.C. § 952(a), a Class B felony

Original Sentence: 87 months custody, 4 years supervised release

Special Conditions: Drug/alcohol treatment; comply and cooperate with ICE

Prior Form(s) 12: On August 28, 2006, jurisdiction was transferred to the Northern District of California from the Southern District of Florida.

Type of Supervision: Supervised Release
Assistant U.S. Attorney: To Be Assigned

Date Supervision Commenced: June 19, 2006
Defense Counsel: (AFPD)

Petitioning the Court

The issuance of a summons for the offender to appear in court before the duty Magistrate Judge for identification of counsel and setting of further proceedings on February 8, 2007, at 9:30 a.m.

I, Sonia Lapizco, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

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Charge Number

Violation

One

There is probable cause to believe that the offender violated the Court Order, stating that the offender shall not commit any other federal, state or local crime.

On November 18, 2007, incident to a traffic violation, the offender was contacted by Santa Clara County Sheriff's Office (SCCSO) Deputy Moore (Badge #1908) on Nordyke Drive and Westboro. As evidenced in the incident report (06-321-0430E), Deputy Moore observed the offender speeding, then failing to come to a complete stop at the above noted intersection. Given the aforementioned, Deputy Moore initiated a traffic stop.

According to Deputy Moore, the offender had bloodshot/watery eyes and slurred speech. When questioned by Deputy Moore, the offender admitted he had a "glass of wine" in the car. Deputy Moore found a 16 ounce styrofoam cup, containing a tequila and soda mixture. The offender consented to field sobriety testing, which he failed. The offender also consented to a breathalyzer test, which yielded .171% blood alcohol concentration at 11:37 p.m., and .163% blood alcohol concentration at 11:43 pm. Deputy Moore concluded that the offender was driving under the influence of alcohol, for which he placed the offender under arrest.

Two

There is probable cause to believe that the offender violated standard condition number one, which states that the defendant shall participate in drug/alcohol aftercare treatment program, which may include testing, as directed by the probation officer.

On August 14, 2006, I referred the offender to code-a-phone testing with our contract provider, Weyland Consultation Services. On November 6, 2006, the offender was referred to our new contractor, Pathway Society, under the same protocol. The offender, however, failed to appear for testing on December 7, 11, and 18, 2006, as well as January 2 and 8, 2007, as evidenced on the Missed U.A. Memos received from Pathway Society on the same dates.

Three

There is probable cause to believe that the offender violated standard condition number eight, which states that the defendant shall not purchase, possess, use, distribute or administer any controlled substance.

On September 25, 2007, the offender reported to the U.S. Probation Office and submitted a urine specimen, which tested positive for Cocaine. On November 9, 2006, the offender was queried by U.S.

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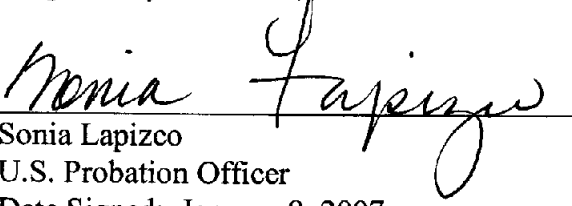
Probation Officer Brian Casai, at which point the offender admitted purchasing and ingesting a "\$10 one-shot."

Evidence of this violation can be found in Scientific Testing Laboratories confirmation in reference to specimen ID#A00033575.

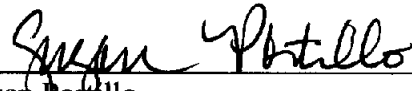
Address of offender: 4430 Pitch Pine Court
San Jose, CA 95136

Based on the foregoing, there is probable cause to believe that Daniel Ortega violated the conditions of his supervision.

Respectfully submitted,


Sonia Lapizco
U.S. Probation Officer
Date Signed: January 9, 2007

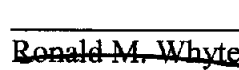
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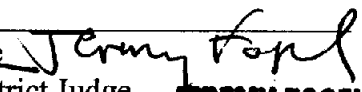

Susan Portillo
Supervisory U.S. Probation Officer

Having considered the information set forth above, the court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

- ☒ The issuance of a summons for the offender to appear in court before the duty Magistrate Judge for identification of counsel and setting of revocation proceedings on February 8, 2007 at 9:30 a.m.
- ☐ Other:

1-11-07
Date


United States District Judge


JEREMY FOGEL